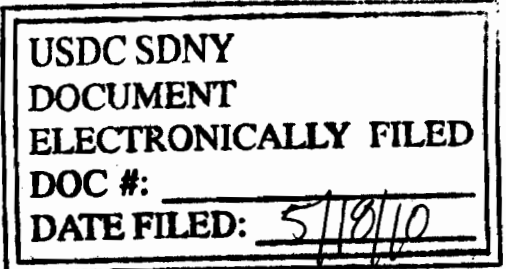


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



-----X  
WILLIAM L. KOCH,

Plaintiff,

v.

HARDY RODENSTOCK,  
d/b/a Meinhard Goerke,

Defendant.  
-----X

06 Cv. 6586 (BSJ) (DF)  
Order

**BARBARA S. JONES**  
**UNITED STATES DISTRICT JUDGE**

On April 23, 2010, Magistrate Judge Debra Freeman issued a Report and Recommendation ("R&R"), recommending that this Court enter a default judgment against Defendant Hardy Rodenstock ("Defendant" or "Rodenstock"). Defendant then filed several letters with this Court objecting to Magistrate Judge Freeman's R&R. For the reasons stated below, the Court adopts the R&R, overrules Defendant Rodenstock's objections, and enters default judgment against Defendant Rodenstock.

Analysis<sup>1</sup>

When a magistrate judge has issued findings or recommendations, the district court "may accept, reject, or modify [them] in whole or in part." 28 U.S.C. § 636(b)(1)(C). The Court reviews de novo any portions of a Magistrate Judge's R&R to which a party has stated an objection. 28 U.S.C. §

<sup>1</sup> The facts and procedural history of this case are set forth in detail in Magistrate Judge Freeman's R&R, familiarity with which is presumed.

636(b)(1)(C). "If no objections are filed or where objections are merely perfunctory responses. . . reviewing courts should review a report and recommendation for clear error." Edwards v. Fischer, 414 F.Supp.2d 342, 346 -347 (S.D.N.Y. 2006). As Defendant is proceeding pro se, this Court will "read [his] supporting papers liberally, and. . . interpret them to raise the strongest arguments that they suggest." Burgos v. Hopkins, 14 F.3d 787, 790 (2d Cir. 1994).

Magistrate Judge Freeman's R&R provides a detailed description of the procedural history of the case, including Defendant's continued failure to participate in discovery or even to appear telephonically at court ordered conferences. Under FED. R. CIV. P. 16(f), the Court may sanction a party or his attorney for such conduct. FED. R. CIV. P. 37(b) provides a range of sanctions available to the Court, including the sanction of default. As such, Magistrate Judge Freeman recommends that this Court enter default judgment against Defendant. The Court agrees with this recommendation and notes the tremendous amount of time and effort expended by Magistrate Judge Freeman, as well as her patience with this pro se defendant, who has been offered every opportunity to defend himself in this lawsuit.

This Court has since received numerous letters from Defendant. On April 28, 2010 and April 29, 2010, the Court received letters that attack the character of Plaintiff William


Koch, but do not address Magistrate Judge Freeman's analysis in any way. Thus, the Court will not consider these objections as they are irrelevant.

On May 6, 2010, the Court received an additional letter from Defendant, written in part in German and in part in English, that reasserts Defendant's argument that all documents and orders must be translated into German under the Hague Convention before he can be required to engage in the discovery process. The Court considers this objection de novo and finds it without merit. As Magistrate Judge Freeman correctly ruled in her November 6, 2009 order, while Article 5 of the Hague Convention applies to the initial service of process on a foreign national, it does not require the translation of all court orders and other documents generated during the course of an ongoing U.S. litigation. Defendant's objection to the R&R is overruled.

#### Conclusion

The Court adopts Magistrate Judge Freeman's R&R in its entirety, overrules Defendant Rodenstock's objections, and enters default judgment against Defendant Rodenstock. This matter is referred to Magistrate Judge Freeman for an inquest on the issue of damages.

SO ORDERED

  
BARBARA S. JONES  
UNITED STATES DISTRICT JUDGE

Dated: New York, New York  
May 17, 2010